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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,028	04/13/2004	Amy Lynn Calfee	CALFEE - 01	3365
7590	11/28/2006		EXAMINER	
Matthew W. Baca Dillon & Yudell LLP Suite 2110 8911 N. Capital of Texas Hwy Austin, TX 78759			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/823,028	CALFEE, AMY LYNN	
	Examiner Phi D. A	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 September 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 20-28 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 20-22,24,27 and 28 is/are rejected.
 7) Claim(s) 23,25 and 26 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/13/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Claims 1-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 9/15/06.

2. Applicant's election without traverse of claims 20-28 in the reply filed on 9/15/06 is acknowledged.

Claim Objections

3. Claim 23 is objected to because of the following informalities: line 4 "whick" is improper. Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-21, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (6334282) in view of Carlson (788515).

Wood (figures 11-19) shows a panel barrier assembly comprising a substantially flat panel (12), at least one panel retention device (figure 18) for compressively securing the panel against at least two opposing frame surface areas that the panel is securely suspended within the framed volume, said at least one panel retention device comprising a substantially U-shaped bracket (77, figure 19) fitted over an edge of the panel.

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Wood does not show the device comprising a rack and gear mechanism affixed to the bracket member, the rack and gear mechanism comprising a driving gear, a rack member having a foot member attached to one end and further having a rack gear engaging the driving gear such that the rack member is linearly movable with respect to the bracket member responsive to rotational actuation of the driving gear.

Carlson shows a device for locking a sash in place, the device comprising a rack and gear mechanism, the rack and gear mechanism comprising a driving gear(14), a rack member (15) having a foot member attached to one end and further having a rack gear (teeth) engaging the driving gear such that the rack member is linearly movable with respect to the bracket member responsive to rotational actuation of the driving gear.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wood's device to show the device comprising a rack and gear mechanism affixed to the bracket member, the rack and gear mechanism comprising a driving gear, a rack member having a foot member attached to one end and further having a rack gear engaging the driving gear such that the rack member is linearly movable with respect to the bracket member responsive to rotational actuation of the driving gear because having rack and gear providing the actuation of the fixing member to lock the panel in place would enable the easy, selective adjustment of the distance needed to lock the panel in place as taught by Carlson.

Per claims 21, 22, 24, Wood as modified shows the driving gear being a spur gear having a rotary actuation plane parallel to the panel, the rack and gear mechanism further including ratchet means (18, taught by Carlson) restricting bidirectional linear motion of the rack member with respect to the bracket member, the rack and gear mechanism comprising support bearing

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means for providing vertical lengthwise bearing support and horizontal lengthwise bearing support for the rack member.

3. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (6334282) in view of Bradshaw (1088399) as applied to claim 20, and further in view of Gibson(4475311).

Wood as modified shows all the claimed limitations except for the rack gear mechanism being fabricated from a composite polymer.

Gibson discloses polymers forming the latch assembly components (col 5 lines 14-19).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wood's modified structure to show the rack gear mechanism being fabricated from a composite polymer because having polymer forming the locking mechanism would result in a light weight and rust resistant locking mechanism as taught by Gibson.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (6334282) in view of Bradshaw (1088399) and Gibson (4475311).

Wood as modified shows all the claimed limitations except for the polymer comprising Delrin.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wood's modified structure to show the polymer comprising Delrin because Delrin would provide for the secure pressing of the locking device against a wall frame without causing damage to the wall frame.

Allowable Subject Matter

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5. Claims 23, 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: prior art does not provide sufficient motivation to modify Wood's structure to show the ratchet means comprising a ratchet arm member engaging the ratchet teeth to allow advancement of the member in a linear direction in which a foot member affixed to one end of the rack member extends outwardly away from the bracket member and inhibiting retraction of the rack member in the opposing linear direction in combination with other claimed limitations, and prior art also does not provide sufficient motivation to modify Wood's structure to show the support bearing means comprising a bearing guide channel disposed lengthwise along a lateral side of the rack member, a vertical guide member fixedly attached to the bracket and having a guide flange engaged into the vertical bearing guide channel in combination with other claimed limitations.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different panel barrier assembly designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

11/22/06